



California Fair Political Practices Commission

January 25, 1989

Tani G. Cantil
Assistant Legal Affairs Secretary
Governor's Office
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. I-88-419

Dear Ms. Cantil:

You have requested advice regarding application of the mass mailing provisions of the Political Reform Act (the "Act")^{1/}, as amended by Proposition 73 on the June 7, 1988 ballot. As I indicated in our telephone conversation in November, I have delayed responding to your request pending adoption of a permanent regulation by the Commission. The Commission has now adopted permanent Regulation 18901 (copy enclosed). As you can see, the permanent regulation contains some changes from the noticed version which I provided to you. As required by law, these changes were made available to the public for 15 days. The regulation will now be submitted to the Office of Administrative Law. We anticipate that the regulation will become effective in late March. However, we are advising that the permanent regulation be followed now.

QUESTION

Would a proclamation by the Governor of the State of California fall within the mass mailing prohibition of Section 89001, as amended by Proposition 73?

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

CONCLUSION

A proclamation by the governor of the State of California would fall within the prohibition of Section 89001. Accordingly, no more than 200 copies of a proclamation may be sent at public expense during a calendar month. Proclamations sent in press releases or sent only to government agencies are not restricted.

FACTS

You have asked whether a proclamation by the Governor of the State of California would fall within the mass mailing provisions of Proposition 73. As an example, you have provided us with a February 1984 proclamation declaring that month as Black History Month.

A proclamation is typically distributed to those persons and or agencies that would be interested in, or affected by, the proclamation.

ANALYSIS

Section 89001 provides that no mass mailing shall be sent at public expense. The Commission has determined that the intent of the voters in adopting Proposition 73, which amended Section 89001, was to prevent elected officers from using public funds to send out newsletters and other mass mailings.

Regulation 18901(c) provides:

(c) A newsletter or other mass mailing may not be sent within the meaning of Government Code Section 89001 if:

(1) The name of the elected officer or his or her photograph appears on the document; and

(A) The elected officer exercises direction or control over the content, production, or distribution of the document, or

(B) The document is sent at the request or suggestion of the elected officer or his or her agent; or

(C) The document is signed by, or is designated as being from, the elected officer or his or her office; or

(2) (A) The elected officer is affiliated with the agency which produces or distributes the document; and

(i) The elected officer is featured in the document; or

(ii) The name, office or other reference to the elected officer or his or her photograph appears on the document and the document is prepared or sent in cooperation, consultation, coordination or concert with the elected officer.

(B) An elected officer is "featured" in a mass mailing if he or she is singled out for attention of the reader by use of his or her signature, inclusion in any photograph, or the manner of display of his or her name or office in the layout of the document such as by headlines, type size, or typeface.

(C) An elected officer is "affiliated with an agency" if he or she is a member, officer, or employee of the agency or a subunit such as a committee, or has supervisory control over the agency, or appoints one or more members of the agency.

Regulation 18901(c) (emphasis added).

The proclamation you have submitted is signed by the Governor and includes his name in the text. Accordingly, it is subject to the prohibition of Section 89001.

This means that no more than 200 copies of the proclamation may be sent out during a calendar month at public expense. However, pieces which are exempt from the prohibition do not count towards the 200 piece limitation. The exemptions are described in Regulation 18901(f) as follows:

(f) The following newsletters or other mass mailings are not prohibited by Government Code Section 89001 if the mailing is sent to the persons specified in each instance below and the mailing consists of:

(1) Press releases sent to members of the media;

(2) Mailings sent in the normal course of business from one governmental entity or officer to another governmental entity or officer;

Tani G. Cantil
January 25, 1989
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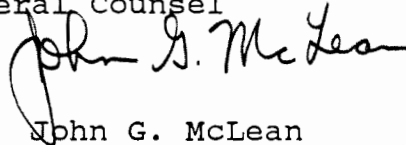
(3) Intra-agency communications sent in the normal course of business to employees, officers, deputies and other staff;

(Regulation 18901(f)(1)(2) and (3).)

I trust this answers your question. If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

A handwritten signature in black ink, appearing to read "John G. McLean", is written over the typed name and title of the sender.

By: John G. McLean
Counsel, Legal Division

DMG:JGM:ld



California Fair Political Practices Commission

October 31, 1988

Tani G. Cantil
Assistant Legal Affairs
Secretary
Governor's Office
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. 88-419

Dear Ms. Cantil:

Your letter requesting advice concerning the recently enacted campaign finance reform initiatives (Government Code Section 85100, et seq.) was received on October 28, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean, an attorney in the Legal Division, directly at (916) 322-5901.

Because of the delayed operative date of most of the provisions of these initiatives, and the numerous inquiries we are receiving relative to implementation, we are attempting to respond to questions regarding interpretation in an organized and efficient fashion. Due to the volume of requests and complexity of the issues involved, we will answer your question in a timely manner, but not within the usual twenty-one working days. (Government Code Section 83114(b).)

If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Gregory V. Baugher
Executive Director

GWB:plh:73FORM3



GEORGE DEUKMEJIAN
GOVERNOR

State of California
GOVERNOR'S OFFICE
SACRAMENTO, CA 95814

FPPC

OCT 28 9 22 AM '88

TELEPHONE
(916) 445-2841

October 25, 1988

John H. Larson, Chairman
Fair Political Practice Commission
428 J street, Suite 800
Sacramento, California

Dear Mr. Larson:

We are requesting your advice as to whether or not a 'proclamation' by the Governor of the State of California would be considered a 'mass mailing' within the purview of Proposition 73. A proclamation is typically distributed to those persons and or agencies that would be interested in, or affected by, the proclamation. Please find attached a copy of a 1984 proclamation which is typical of proclamations issued by the Governor.

Sincerely,

A handwritten signature in dark ink, appearing to read "T. Cantil".

Tani G. Cantil
Assistant Legal Affairs
Secretary

OFFICE OF THE GOVERNOR
Sacramento, Calif. 95814
Larry Thomas, Press Secretary
916-445-4571 2-6-84

RELEASE: Immediate

#82

Gov. George Deukmejian has issued the following proclamation:

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA



A PROCLAMATION
by the Governor of the State of California

WHEREAS, throughout the history of our nation and our state, Black Americans have made important contributions and significant achievements in such fields as science, art, business, athletics, government, religion, and literature; and

WHEREAS, we are proud of the tremendous accomplishments of Black men and women and recognize their vital role in shaping our nation's history and heritage; and

WHEREAS, all Californians should also join in recognizing the contributions Black citizens of this state have made to our society; and

WHEREAS, in recent years, greater efforts have been made to acknowledge and teach the important, yet sometimes overlooked, contributions Black Americans have made to the development of our economic, cultural, and social heritage; and

WHEREAS, the month of February 1984 has been designated as the 58th Annual Black History Month to commemorate the Black men and women who have contributed so much to all aspects of our lives; and

WHEREAS, during Black History Month in California, thousands of young people in our schools will have the opportunity to develop an increased understanding and knowledge of the diverse accomplishments of Black Americans;

NOW, THEREFORE, I, GEORGE DEUKMEJIAN, Governor of the State of California, do hereby proclaim February 1984 as Black History Month in California and encourage all Californians to join in recognizing and honoring Black American men and women for their contributions and achievements to our nation.

IN WITNESS WHEREOF I have hereunto set my hand
and caused the Great Seal of the State of
California to be affixed this 1st day of February
1984

George Deukmejian
Governor of California

ATTEST:

March Forgive
Secretary of State

By *Marjorie Harwood*
Deputy Secretary of State





GEORGE DEUKMEJIAN
GOVERNOR

State of California
GOVERNOR'S OFFICE
SACRAMENTO, CA 95814

FPPC
Oct 28 9 22 AM '88

TELEPHONE
(916) 445-2841

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Secretary

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By *Marjorie Henderson*
Deputy Secretary of State

